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SENATE JOINT RESOLUTION 142
By Rochelle

A RESOLUTION relative to the Telecommunications Act of 1996
and federal preemption.

WHEREAS, in passing the Telecommunications Act of 1996, Congress acknowledged the rights of states to regulate intrastate telecommunications and the rights of state and local governments to manage public rights-of-way in a competitively neutral and nondiscriminatory manner; and

WHEREAS, in most areas of governmental concern, state and local governments possess both the Constitutional authority and the competence to manage public policy issues within their respective jurisdictions; and

WHEREAS, the Federal Communications Commission (FCC) has agreed to review petitions from telecommunications service providers that challenge the authority of state and local governments to manage public rights-of-way and to receive compensation for their use; and

WHEREAS, such action by the FCC runs counter to the expressed intent of Congress that nothing in the Telecommunications Act shall impede the taxing and regulatory authority of state and local governments; and

WHEREAS, federal laws and regulations that interfere with state and local government powers should be restricted to only those powers delegated to the federal government by the Constitution of the United States; and

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WHEREAS, a federal preemption of state and local authority to manage rights-of-way will have far-reaching impacts on local government revenues, land use policy and zoning authority, which is counter to the intent of Congress in enacting the Telecommunications Act of 1996; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE-HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, That the U.S. Congress is hereby urged and encouraged to exercise its oversight and legislative authority to require the FCC to restore the traditional regulatory balance between the states and the federal government.

BE IT FURTHER RESOLVED, That Tennessee's Congressional Delegation is urged and encouraged to take the lead in passing a law to protect the rights of the states and the people from such abuse by the federal government and to restrain federal agencies from exceeding their authority, and, most importantly, enforce the Tenth Amendment to the Constitution of the United States.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be prepared for presentation to each member of Tennessee's Congressional Delegation, the President and Vice President of the United States, and the Governor of the State of Tennessee.